



State of Washington
DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services

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May 29, 2001

TO: Escrow Agent Licensees

FROM: Mark Thomson

SUBJECT: Escrow Agent Registration Act Rulemaking

Please find enclosed a copy of the amended rules implementing the Escrow Agent Registration Act (Act), Ch. 18.44 RCW, including the Rulemaking Order, Form CR-103. These amendments to the escrow rules, Ch. 208-680 WAC, were developed after extensive discussion with the Escrow Commission and other industry representatives. The amended rules became effective on May 3, 2001.

The amendments largely reflect changes made by the Legislature to the Act in 1999. In other cases, amendments were made to clarify the responsibility of either DFI or licensees. The codified version of the rules is not yet available from the Code Reviser's office. When it becomes available, we will post a copy on our website and you can download a copy. You can access the DFI website at www.dfi.wa.gov. You can check for the codified version of the amended rules under consumer services/escrow companies.

Summary of Rule Amendments:

References to old RCW sections numbers are corrected to reflect the new section numbers that resulted from the codification of the 1999 changes to the statute.

WAC 208-680A: Escrow – Organization and Administration

This section of the WAC consists primarily of definitions. The amendments to this section revise several of the existing definitions and add several new definitions to incorporate and clarify the 1999 amendments to the Act.

WAC 208-680B: Escrow – Licensing and Examination

This section of the WAC consists of rules governing the Department’s license application process, the examination administered by the Department to all escrow officer license applicants, and limitations imposed upon licensees. The amendments to this section include but are not limited to:

- Establishes guidelines for reporting on changes in licensee’s principals or controlling persons (WAC 208-680B-015);
- Ensures that fingerprints to allow for a background check are required of all applicants, and not just those who have been convicted of a felony or misdemeanor. (WAC 208-680B-020);
- Defines the term “an appropriate knowledge of the English language” as the demonstrated ability to read and understand escrow documents as they are commonly drafted in the State of Washington (WAC 208-680B-030);
 - Limits the designated escrow officer (DEO) and branch DEO to supervising only one physical location without prior written consent from the Director. (New Section WAC 208-680B-100)
 - Limits the DEO and branch DEO to employment by a single escrow agent without prior written consent from the Director. (New Section WAC 208-680B-110)
 - Requires the escrow agent to notify DFI within 24 hours of refusing the DEO access to trust account records (New Section WAC 208-680B-120).

WAC 208-680C: Escrow – Escrow Agent Office

This section of the WAC consists of rules governing the offices of licensed escrow agents, the closing of an escrow agent’s office, and prohibiting the use of deceptive names. The proposed amendments to this section include but are not limited to:

- Defining an escrow agent’s office as any fixed physical location where an escrow agent holds itself out to the public as able to perform escrow services. (WAC 208-680C-020);
- Requiring a licensed escrow agent to notify the Department 10 days prior to a change in office location. (WAC 208-680C-040);
- Establishing timelines for notification of the Department during stages of closing an escrow agent’s office. (WAC 208-680C-045).

WAC 208-680D: Escrow - Records and Responsibilities

This section of the WAC consists of rules governing an escrow agent’s responsibilities in conducting escrow services and maintaining records of escrow transactions. The section includes but are not limited to:

- Authorizing the Department to retain or instruct the licensee to retain a CPA or acceptable other person to reconcile the trust account and report whether it has been maintained in compliance with WAC 208-680E-011 and report on the adequacy of the internal routine and controls prior to accepting a new DEO or branch DEO (WAC 208-680D-010);

- Clarifying the recordkeeping requirements to meet current industry practices (WAC 208-680D-020);
- Requiring the escrow agent to disclose in writing identifying when fees for services provided by the escrow agent may be realized, and requirements governing for disclosing third party service fees, whether performed by the licensee or contracted to a third party service provider. Providing instruction on completing escrow instruction, closing statement and maintenance of these records. (WAC 208-680D-040);
- Requiring timely disbursement of funds, requiring the escrow agent to hold funds when notified by a principal of a dispute until such dispute is resolved, and authorizing the escrow agent to interplead funds to a court of appropriate jurisdiction. (WAC 208-680D-060);
- Establishes prohibited practices that represent violations of the Act and this section. These practices include defrauding or misleading borrowers, engaging in unfair or deceptive practices, obtaining property by fraud or misrepresentation, and other unfair or deceptive practices (New Section WAC 208-680D-090)
- Establishes procedures governing split escrows (New Section WAC 208-680D-100)

WAC 208-680F: Escrow – Financial Responsibility

This section of the WAC consists of rules governing an escrow agent's financial responsibility in conducting escrow services. The proposed amendments to this section include but are not limited to:

- Allows the escrow agent to have a deductible of up to \$10,000 on fidelity bond, as long as a \$10,000 surety bond is obtained (WAC 208-680F-010)

WAC 208-680G: Escrow – Examinations, Investigations, Enforcement and Sanctions

This section of the WAC consists of rules governing the Department's authority to conduct examinations, investigations, enforcement actions and to impose sanctions upon licensees and others. The proposed amendments to this section include but are not limited to:

- A description of the Department's authority to conduct examinations of the records of a licensee or any person conducting the business of an escrow agent as defined in the act, including accessing records and interviewing individuals. (New section WAC 208-680G – 010);
- A description of the Department's authority to conduct investigations of the business practices of a licensee or other person conducting the business of an escrow agent as defined in the statute, including accessing records and interviewing individuals. (New section WAC 208-680G-020);
- A listing of the types of enforcement actions the Department may undertake against licensees and other persons conducting the business of an escrow agent. (New section WAC 208-680G-030);

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- A listing of the sanctions the Department may impose upon licensees and other persons conducting the business of an escrow agent. (New section WAC 208-680G-040); Authority to pass on the incremental travel costs from examinations or investigations of licensees located outside the State of Washington to the licensee, and to pass on certain other costs associated with examinations or investigations. (New section WAC 208-680G-050).

Enclosure